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FEDERAL ELECTION COMMISSION
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CELA

April 5, 2017

VIA E-MAIL

Jeff S. Jordan
Mary Beth deBeau
Federal Election Commission
Office of Complaints Examination &
Legal Administration
999 E Street, NW
Washington, DC 20436
CELA@fec.gov

Re: MUR 7224

Dear Mr. Jordan, Ms. deBeau:

I am counsel for Dow Jones & Company, Inc. ("Dow Jones"), publisher of The Wall Street Journal, and Journal reporter Janet Hook (jointly, "respondents").¹ By letters dated March 22, 2017, the Federal Election Commission has forwarded a complaint that it says "indicates" that Ms. Hook and "News Corp (d.b.a. The Wall Street Journal) may have violated the Federal Election Campaign Act of 1971, as amended (the 'Act')."

On behalf of Dow Jones and Ms. Hook, I am hereby responding to explain why there is no reason to believe that the complaint sets forth a possible violation of the Act and therefore to request that the complaint be dismissed with no action taken.² Simply put, the assertion that The Wall Street Journal and its reporter Ms. Hook violated the Act by publishing a news report about a candidate that the complainant believes is inaccurate is without merit and does not warrant the use of Commission resources.

¹ Attached please find Statements of Designation of Counsel forms from Ms. Hook and Dow Jones.

² As an initial matter, the Commission's letter mistakenly seeks a response from "News Corp (d.b.a The Wall Street Journal)." The Wall Street Journal is published by Dow Jones. News Corp, the indirect corporate parent of Dow Jones, is not involved in the day to day operations of Dow Jones. Rather, Dow Jones controls the newsgathering, editing, printing, and distribution of The Wall Street Journal.

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The complaint filed by Kerry D. Bowers asserts that a news story by Ms. Hook entitled "Ted Cruz Announces 2016 GOP Presidential Bid", published by the Journal on March 23, 2015, and available on the Journal's website at <https://www.wsj.com/articles/texas-senator-ted-cruz-to-announce-2016-gop-presidential-bid-1427029555> (the "Article"),³ erroneously reported that Ted Cruz was the "first" candidate "to announce a run" for the Presidency. Based on this alleged error, Mr. Bowers claims that the Article somehow violates the Act.

The Article written by Ms. Hook and published by the Journal does not qualify as an "expenditure" under the Act. The Journal is not "owned or controlled by any political party, political committee, or candidate." 52 U.S.C. § 30101(9)(B)(i) ["The term 'expenditure' does not include—any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate."]. See also 11 C.F.R. § 100.73 [press exemption from "contributions"]; 11 C.F.R. § 100.132 [press exemption from "expenditures"].

As noted above, the publisher of the Journal, Dow Jones, is an indirect subsidiary of News Corp. News Corp is not a "political party, political committee, or candidate." Rather, it is a publicly-traded, global, diversified media and information services company focused on creating and distributing authoritative and engaging content to consumers throughout the world.

The Wall Street Journal has been a trusted source of news since its first publication in 1889. Ms. Hook, an award-winning journalist, has reported from the Journal's Washington bureau since 2010. In reporting and publishing the Article, respondents were clearly carrying out their "legitimate press function," as they do on a regular basis. *Reader's Digest Ass'n, Inc. v. Fed. Election Comm'n*, 509 F. Supp. 1210, 1214 (S.D.N.Y. 1981). There is no allegation to the contrary, nor could there be.⁴ The FEC's investigation of this complaint should therefore proceed no further. See, e.g., *Fed. Election Comm'n v. Phillips Publ'g, Inc.*, 517 F. Supp. 1308, 1313 (D.D.C. 1981) ["If the press entity is not owned or controlled by a political party or candidate and it is acting as a press entity, the FEC lacks subject matter jurisdiction and is barred from investigating the subject matter of the complaint."]; cf. *Fed. Election Comm'n v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 250-51 (1986). Even if the statutory and regulatory press exemptions were somehow misconstrued so as to

³ A copy of the Article is attached for reference.

⁴ The Dow Jones Code of Conduct expressly prohibits Journal news personnel from engaging in "partisan political activity." See <https://www.dowjones.com/code-conduct/> ["Many companies, for a variety of reasons, participate in the partisan political process at various levels of government. As a publisher, Dow Jones has a different tradition. Dow Jones does not contribute, directly or indirectly, to political campaigns or to political parties or groups seeking to raise money for political campaigns or parties, and Dow Jones does not and will not reimburse any employee for any political contribution made by an employee. All news personnel and members of senior management with any responsibility for news should refrain from partisan political activity."].

exclude the Article from their scope, the First Amendment to the U.S. Constitution fully protects respondents in this matter.

And while this too lies completely outside the FEC's jurisdiction, we note that the Article is not inaccurate and no correction is needed. The caption under the video displayed at the top of the Article says "Republican Senator Ted Cruz entered the 2016 presidential race on Monday, becoming the first major candidate of either party to confirm candidacy." And the second paragraph of the Article reports that Mr. Cruz became "the first major candidate of either party to enter the race." Accordingly, it is clear to readers that other candidates - not "major" ones - might have entered the race before Mr. Cruz.

In sum, there is no reason to believe that the complaint sets forth a possible violation of the Act. We respectfully request that the complaint be dismissed and the file closed with no action taken against respondents. Please let me know if I can provide you with any further information.

This letter is written without prejudice to the claims or defenses of respondents, all of which are expressly reserved.

Respectfully submitted,


Jacob P. Goldstein

cc: Kerry D. Bowers
1140 Highbury Grove St.
Henderson, NV 89002-0522

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House Intel Panel Wants Susan Rice to Testify in Russia Probe

The House Intelligence Committee wants former Obama White House official Susan Rice to testify in the probe into alleged Russian election interference; she says she didn't leak information regarding Trump associates.

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Mr. Cruz stands for a brand of ideological conservatism that contrasts with former

Florida Gov. Jeb Bush, who has said a successful presidential candidate must be willing to "lose the primary"—that is, risk angering

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the party's most conservative followers—to succeed with the more centrist electorate in the general election.

By contrast, Mr. Cruz has sometimes angered congressional leaders by pushing for conservative goals, such as ending the Democratic-backed Affordable Care Act and President Barack Obama's immigration policy, at the cost of provoking gridlock in Washington. He was widely blamed for helping to prompt the 2013 government shutdown, an effort to unwind the 2010 health law that many Republicans say wound up damaging the party's image.

Mr. Cruz is scheduled to speak Monday at Liberty University, a Christian college in Lynchburg, Va., founded by the Rev. Jerry Falwell.

Mr. Cruz's early presence in the field could pressure other potential candidates to move to the political right on fiscal policy, social issues and on the tactics for pursuing policy goals, particularly among contenders who are trying to establish themselves as the leading conservative alternative to Mr. Bush.

"Cruz has the potential to take up quite a bit of space on the right in the conservative primary-within-the-primary," said Kevin Madden, a veteran GOP campaign strategist. "The candidates looking to grab the mantle of being the antiestablishment choice for voters will certainly start to feel pressure to match Cruz step for step and not allow themselves to get outflanked to their right."



Sen. Ted Cruz announced his bid for the presidency on Twitter. PHOTO: ASSOCIATED PRESS

Mr. Cruz argues that the GOP repeatedly has lost the White House because it has rejected strict conservatives in favor of more centrist candidates.

"If we run another candidate in the mold of a Bob Dole or a John McCain or Mitt Romney, we

will end up with the same result, which is millions of people will stay home on Election Day...If we run another candidate like that, Hillary Clinton will be the next president," Mr. Cruz said in a 2014 CNBC interview.

By jumping in first for the most wide-open GOP nomination fight in a generation, Mr. Cruz is hoping to claim a measure of visibility. Other potential candidates are preparing to formally declare their bids in the coming weeks.

Well known public figures like Messrs. Bush and Christie seem to be in less of a rush to launch races and inaugurate a more intense stage of campaigning and scrutiny.

Still in his first term—he was elected in 2012—Mr. Cruz has used his place in the Senate to define himself as one of the most ardent conservatives and as more aggressive than party leaders in fighting for policy goals. One example came in 2013, when he delivered a 21-hour speech on the Senate floor to dramatize his opposition to funding for the health-care law.

He highlighted that contrast in a recent video he called "Truth," which implied that other Republican candidates offer more talk than action.

"Obamacare: When have you stood up and fought against it?" Mr. Cruz said in the video. "President Obama's illegal and unconstitutional executive amnesty: When have you stood up and fought against it?" he asked, referring to the president's actions, without congressional approval, to shelter many illegal immigrants from deportation.

Mr. Cruz's supporters contend he is in a good position to appeal to voters across party lines who are disillusioned with the political system. "There is clearly a frustration in this country with the status quo, and people are looking for something new and something different," said Saul Anuzis, former chairman of the Michigan Republican Party.

But Mr. Cruz's Republican critics say he is too polarizing to be a strong general election candidate.

"He thinks he has a formula for energizing conservatives, but he doesn't have the skill or inclination to reach out to other people," said Pete Wehner, a Republican strategist who worked in the George W. Bush White House. "I don't think he's got much appeal beyond the core base of the Republican Party."

A Wall Street Journal/NBC News poll this month suggested that Mr. Cruz had work to do to boost himself among Republican primary voters. Some 40% said they could see

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themselves backing him for president, while 38% said they couldn't.

Democrats already are criticizing Mr. Cruz as someone outside the mainstream on issues including climate change, which Mr. Cruz has said isn't supported by science.

"That man betokens such a level of ignorance and a direct falsification of the existing scientific data...[he] has rendered himself absolutely unfit to be running for office," said California Gov. Jerry Brown, speaking Sunday on NBC.

Write to Janet Hook at janet.hook@wsj.com

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STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

FAX 202-219-3923

MUR # 7224

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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

4/4/17 Jacob Goldstein VP's General Counsel
 Date Signature (Respondent/Agent) Title

RESPONDENT: Jason P. Conti
 (Committee Name/ Company Name/Individual Named in Notification Letter)

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This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.